

SUPREME COURT OF RHODE ISLAND

The New Castle Realty Company v. Raymond Dreczko, Jr., in his capacity as member of the Town of Charlestown Zoning Board of Review, et al.

New Castle Realty · No. 2018-65-M.P. (WC 15-161) · Decided April 13, 2021

SUMMARY

The Rhode Island Supreme Court reviewed a Superior Court judgment concerning the denial of a special-use permit and dimensional variance for construction on a nonconforming lot in Charlestown. The Court held that the zoning board lacked substantial evidence to deny the special-use permit based primarily on concerns within the Rhode Island Department of Environmental Management's expertise, but that further factfinding was required regarding the dimensional variance. The Court affirmed in part and quashed in part the Superior Court judgment.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Paul A. Suttell; Chief Justice Suttell; Justice Goldberg; Justice Robinson; Justice Lynch Prata; Justice Long
JURISDICTION	Rhode Island
DECIDED	April 13, 2021
DOCKET	2018-65-M.P. (WC 15-161)
DISPOSITION	quashed
PROCEDURAL POSTURE	The Rhode Island Supreme Court granted New Castle Realty Company's petition for a writ of certiorari to review the Superior Court's judgment affirming the Charlestown Zoning Board of Review's denial of a special-use permit and dimensional variance.
STANDARD OF REVIEW	On certiorari from a Superior Court judgment entered after review of a municipal zoning-board decision, the Supreme Court determines whether the trial justice acted within the authority granted by R.I. Gen. Laws § 45-24-69. It does not substitute its judgment for that of the zoning board on factual weight and reviews whether substantial evidence supported the Superior Court's decision. The Court will not reverse unless the trial justice misapplied the law, misconceived or overlooked material evidence, or made clearly wrong findings.

PRECEDENTIAL VALUE	published
PARTIES	The New Castle Realty Company v. Raymond Dreczko, Jr., in his capacity as member of the Town of Charlestown Zoning Board of Review, et al.

TOPICS

zoning judicial review of agency action writ of certiorari administrative law appellate procedure

PRACTICE AREAS

zoning and land use municipal law administrative law appellate procedure environmental law

QUESTIONS PRESENTED

1. Whether the Superior Court properly determined that the zoning-board record contained sufficient findings of fact and conclusions of law to permit judicial review.
2. Whether substantial evidence supported denial of the special-use permit despite the Department of Environmental Management's permits for wetlands alteration and the onsite wastewater treatment system.
3. Whether the Superior Court properly affirmed denial of the dimensional variance on the ground that the requested relief was not the least relief necessary.

HOLDINGS

1. Although the Supreme Court disapproved of the zoning board's procedure and found that the board failed to enumerate specific findings as required by statute, the record contained minimally sufficient findings to enable judicial review.
2. Substantial evidence did not support either the zoning board's denial of the special-use permit or the Superior Court's affirmance of that denial.
3. The Superior Court properly affirmed denial of the dimensional variance because New Castle failed to establish that the requested relief was the least relief necessary to enjoy a legally permitted beneficial use of the property.

KEY QUOTATIONS

"The court shall not substitute its judgment for that of the zoning board of review as to the weight of the evidence on questions of fact." (6)

"The DEM permit approval is, therefore, entitled to deference." (14-15)

"We are further of the opinion that substantial evidence does not exist in the record to support either the zoning board's decision to deny the special-use permit or the trial justice's ruling to affirm the same." (15)

“Here, we are satisfied that the trial justice’s ruling that New Castle’s requested relief does not reflect the least relief necessary is supported by substantial evidence.” (20)

FACTUAL BACKGROUND

New Castle owned a 1.9-acre lot created in a 1974 subdivision when the applicable minimum lot size was one acre; the Town of Charlestown later increased the minimum lot size to three acres, making the parcel nonconforming. Most of the parcel consisted of wooded swamp, leaving a limited buildable area near the street. Before seeking local zoning relief, New Castle obtained Rhode Island Department of Environmental Management permits to alter freshwater wetlands and construct an onsite wastewater treatment system. The zoning board nevertheless denied the special-use permit and dimensional variance, relying largely on members' concerns about wetlands impacts and on the applicant's failure to consider a smaller or differently situated house.

PROCEDURAL HISTORY

New Castle applied for a special-use permit to install an onsite wastewater treatment system within 100 feet of wetlands and for a dimensional variance from front- and side-yard requirements to construct a house on a preexisting nonconforming lot. The zoning board denied both applications. The Washington County Superior Court affirmed, concluding that the board had made sufficient findings, that the board could independently consider zoning factors notwithstanding approvals by the Rhode Island Department of Environmental Management, and that the requested dimensional variance was not the least relief necessary. The Supreme Court affirmed the dimensional-variance ruling but quashed the judgment insofar as it affirmed denial of the special-use permit.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The judgment was affirmed in part and quashed in part. The record was returned to the Superior Court with the Supreme Court's decision endorsed thereon; the opinion does not expressly order a remand to the zoning board, although its holding eliminates the affirmance of the special-use-permit denial.

CASES CITED

- Iadevaia v. Town of Scituate Zoning Board of Review, 80 A.3d 864 (R.I. 2013)
- Sciacca v. Caruso, 769 A.2d 578 (R.I. 2001)
- Pawtucket Transfer Operations, LLC v. City of Pawtucket, 944 A.2d 855 (R.I. 2008)
- Bellevue Shopping Center Associates v. Chase, 556 A.2d 45 (R.I. 1989)
- Preservation Society of Newport County v. City Council of City of Newport, 155 A.3d 688 (R.I. 2017)
- Cullen v. Town Council of Town of Lincoln, 850 A.2d 900 (R.I. 2004)
- Bernuth v. Zoning Board of Review of Town of New Shoreham, 770 A.2d 396 (R.I. 2001)
- Irish Partnership v. Rommel, 518 A.2d 356 (R.I. 1986)

- Milardo v. Coastal Resources Management Council of Rhode Island, 434 A.2d 266 (R.I. 1981)
- Murphy v. Zoning Board of Review of Town of South Kingstown, 959 A.2d 535 (R.I. 2008)
- Restivo v. Lynch, 707 A.2d 663 (R.I. 1998)
- Smith v. Zoning Board of Review of City of Warwick, 103 R.I. 328, 237 A.2d 551 (1968)
- Del Toro v. Zoning Board of Review of Town of Bristol, 82 R.I. 317, 107 A.2d 460 (1954)

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